

E & R AMENDMENTS TO LB 384

1           1.     Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           "Section 1. Sections 1 to 22 of this act shall be known  
4 and may be cited as the Municipal Natural Gas System Condemnation  
5 Act.

6           Sec. 2. A city may acquire and appropriate a gas system  
7 through the exercise of the power of eminent domain if such power  
8 is exercised in the manner specified in and subject to the  
9 Municipal Natural Gas System Condemnation Act.

10          Sec. 3. A city may condemn the property of a utility  
11 which constitutes a portion of a gas system without complying with  
12 the Municipal Natural Gas System Condemnation Act if:

13           (1) The condemnation is necessary for the public purpose  
14 of acquiring an easement or right-of-way across the property of the  
15 utility or is for the purpose of acquiring a portion of the gas  
16 system for a public use unrelated to the provision of natural gas  
17 service; and

18           (2) The condemnation will not materially impair or  
19 interfere with the operation by the utility of the gas system as a  
20 whole.

21          Sec. 4. For purposes of the Municipal Natural Gas System  
22 Condemnation Act:

23           (1) City means a city of the primary class, city of the  
24 first class, city of the second class, or village;

1                   (2) Commission means the Public Service Commission;

2                   (3) Gas system means all or any portion of a gas plant or  
3                   a gas system, including a natural or bottled gas plant, gas  
4                   distribution system, or gas pipelines, located or operating within  
5                   or partly within and partly without a city, together with real and  
6                   personal property needed or useful in connection therewith, if the  
7                   main part of the plant or system are located within the city; and

8                   (4) Utility means an investor-owned utility owning,  
9                   maintaining, and operating a gas system within a city.

10                   Sec. 5. A city proposing to acquire a gas system through  
11                   the exercise of the power of eminent domain shall initiate the  
12                   process by ordering the preparation of a resolution of intent to  
13                   pursue condemnation of the gas system in accordance with the  
14                   requirements of the Municipal Natural Gas System Condemnation Act  
15                   by a vote of a majority of the members of the governing body of the  
16                   city.

17                   Sec. 6. (1) The resolution of intent shall generally  
18                   describe the property subject to the proposed taking, including the  
19                   types of property and facilities to be subject to the taking and  
20                   the extent and amount of property to be appropriated. The  
21                   resolution of intent shall set forth one or more of the following:

22                   (a) A description of the acts and omissions of the  
23                   utility regarding natural gas safety which the city believes have  
24                   created or may create a material threat to the health and safety of  
25                   the public in the city and a description of the nature of the  
26                   threat;

27                   (b) A description of the acts and omissions of the

1 utility regarding the terms, conditions, and quality of natural gas  
2 service to natural gas ratepayers in the city which the city  
3 believes fail to meet generally accepted standards of customer  
4 service within the natural gas industry or within the business  
5 community generally;

6 (c) A comparison of the rates for natural gas charged by  
7 the utility to ratepayers in the city and of the rates charged to  
8 similarly situated ratepayers in comparably sized cities in  
9 Nebraska and neighboring states which are served by the same or  
10 different utilities, which comparison the city believes indicates  
11 that the rates charged in the city are excessive; or

12 (d) A description of recent or contemporaneous events or  
13 disclosures regarding the utility, including, but not limited to,  
14 changes in ownership, corporate structure, financial stability, or  
15 debt rating or any other factor which the city believes indicates  
16 financial instability in the utility which may impair its ability  
17 to maintain appropriate levels of safety and consumer service in  
18 the city.

19 (2) If the resolution of intent contains provisions as  
20 set out in subdivision (1)(a) or (b) of this section, the  
21 resolution shall describe the efforts by the city to inform the  
22 utility of utility acts or omissions regarding safety or service  
23 and shall describe the opportunities afforded the utility to remedy  
24 the defects.

25 (3) The resolution of intent shall not contain any  
26 provision regarding nor make any references to any expected or  
27 anticipated revenue to be derived by the city in consequence of the

1 city's taking or operation of the gas system.

2           Sec. 7. The resolution of intent to pursue condemnation  
3 shall be presented to the governing body of the city at a regular  
4 meeting of such governing body. At that meeting the governing body  
5 may adopt the resolution of intent and, if it does so, shall set a  
6 time not sooner than forty-five days after the date of the meeting  
7 at which the resolution of intent was adopted at which time the  
8 governing body of the city shall hold a public hearing. At the  
9 public hearing the sole item of business to be conducted shall be  
10 the public hearing on the resolution of intent at which the public  
11 shall be permitted to comment on the proposed condemnation, the  
12 utility shall be permitted to respond to the allegations set out in  
13 the resolution of intent, and the governing body may act as  
14 provided in section 8 of this act. The clerk of the city shall  
15 transmit a copy of the resolution of intent and notice of the date  
16 and time of the public hearing to the utility by certified United  
17 States mail within seven days after the meeting at which the  
18 resolution of intent was adopted. Not less than thirty days prior  
19 to the public hearing, the city shall publish notice of the time  
20 and place of the public hearing and a summary of the resolution of  
21 intent in a legal newspaper published in or of general circulation  
22 in the city.

23           Sec. 8. After the public hearing provided for in section  
24 7 of this act, the governing body of the city, by majority vote of  
25 its members, may vote to exercise the power of eminent domain and  
26 condemn the gas system or such portion thereof as it is described  
27 in the motion. The motion shall identify fully and accurately the

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1 property subject to the taking.

2           Sec. 9.   The clerk of the city shall transmit to the  
3 Chief Justice of the Supreme Court notice of the formal vote by the  
4 governing body to pursue condemnation of the gas system. The  
5 Supreme Court shall, within thirty days after the receipt of such  
6 notice, appoint three judges of the district court from three of  
7 the judicial districts of the state to constitute a court of  
8 condemnation to ascertain and find the value of the gas system  
9 being taken. The Supreme Court shall enter an order requiring the  
10 judges to attend as a court of condemnation at the county seat of  
11 the county in which the city is located, within such time as may be  
12 stated in the order, except upon stipulation by all necessary  
13 parties as to the value of the gas system filed with the Supreme  
14 Court prior to such date. The judges shall attend as ordered and  
15 at the first meeting shall select a presiding judge, organize, and  
16 proceed with the court's duties. The court may adjourn from time  
17 to time and shall fix a time for the appearance before it of all  
18 such corporations or persons as the court may deem necessary to be  
19 made parties to such condemnation proceedings or which the city or  
20 the utility may desire to have made a party to the proceedings. If  
21 such time of appearance shall occur after any proceedings have  
22 begun, the proceedings shall be reviewed by the court, as it may  
23 direct, to give all parties full opportunity to be heard. All  
24 corporations or persons, including all mortgagees, bondholders,  
25 trustees for bondholders, leaseholders, or other parties or persons  
26 claiming any interest in or lien upon the gas system, may be made  
27 parties to the proceedings. All parties shall be served with

1 notice of the proceedings and the time and place of the meeting of  
2 the court of condemnation in the same manner and for such length of  
3 time as the service of a summons in cases begun in the district  
4 court, either by personal service or service by publication, and  
5 actual personal service of notice within or without the state shall  
6 supersede the necessity of notice by publication.

7           Sec. 10. In all proceedings before it, the court of  
8 condemnation shall appoint a reporter of its proceedings who shall  
9 report and preserve all evidence introduced before it. The clerk  
10 of the district court, in the county where the city is located,  
11 shall attend upon the court of condemnation and perform the duties  
12 of the clerk thereof, as the court of condemnation may direct. The  
13 sheriff of the county or any of his or her deputies shall attend  
14 upon the court and shall have power to serve summonses, subpoenas,  
15 and all other orders or papers ordered to be served by the court.  
16 In case of a vacancy on the court, the vacancy shall be filled by  
17 the Supreme Court if the vacancy occurs while the Supreme Court is  
18 in session, and if it occurs while the Supreme Court is not in  
19 session, then by the Chief Justice. The judges constituting the  
20 court of condemnation shall be paid by the city a per diem for  
21 their services in an amount to be established by rule of the  
22 Supreme Court and the city shall pay their necessary traveling  
23 expenses, accommodation bills, and all other necessary expenses  
24 incurred while in attendance upon the sittings of the court of  
25 condemnation, with reimbursement for expenses to be made as  
26 provided in sections 81-1174 to 81-1177. The city shall pay the  
27 reporter that is appointed by the court the amount that is set by

1 the court. The sheriff shall serve all summonses, subpoenas, or  
2 other orders or papers ordered issued or served by the court of  
3 condemnation at the same rate and compensation for which he or she  
4 serves like papers issued by the district court, but shall account  
5 to the county for all compensation as required of him or her under  
6 the law governing his or her duties as sheriff.

7           Sec. 11.   (1) In ascertaining the value of the gas  
8 system, the court of condemnation shall have full power to summon  
9 witnesses, administer oaths, take evidence, order the taking of  
10 depositions, and require the production of any and all books and  
11 papers deemed necessary for a full investigation and ascertainment  
12 of the value of any portion of the gas system. When part of the  
13 gas system appropriated under the Municipal Natural Gas System  
14 Condemnation Act extends beyond the territory within which the city  
15 exercising the power of eminent domain has a right to operate the  
16 gas system, the court of condemnation, in determining the damages  
17 caused by the appropriation, shall take into consideration the fact  
18 that the portion of the gas system beyond that territory is being  
19 detached and not appropriated by the city, and the court of  
20 condemnation shall award damages by reason of the detachment and  
21 the destruction in value and usefulness of the detached and  
22 unappropriated property as it will remain and be left after the  
23 detachment and appropriation. The court shall have all the  
24 necessary powers and perform all the necessary duties in the  
25 condemnation and ascertainment of the value and in making an award  
26 of the property of the gas system.

27           (2) The court of condemnation shall have power to

1 apportion the costs of the proceedings before it between the city  
2 and the utility and the city shall provide for and pay the costs as  
3 ordered by the court. The city shall make provisions for the  
4 necessary funds and expenses to carry on the proceedings of the  
5 court while the proceedings are in progress. If the governing body  
6 of the city elects to abandon the condemnation proceedings, the  
7 city shall pay all the costs made before the court.

8 (3) If the services of expert witnesses or attorneys are  
9 secured by the utility, their fees or compensation as billed to the  
10 utility are to be taxed and paid as costs by the city to the extent  
11 that the court determines that the fees and compensation sought  
12 reflect the prevailing industry or professional charges for such  
13 services in cases of the size involved in the taking and were  
14 reasonably necessary to a just and accurate determination of the  
15 value of the gas system. The costs of any appeal shall be adjudged  
16 against the party defeated in the appeal in the same degree and  
17 manner as is done under the general court practice relating to  
18 appellate proceedings.

19 Sec. 12. (1) Upon the determination and filing of a  
20 finding of the value of the gas system by the court of  
21 condemnation, the city shall have the right and power by resolution  
22 adopted by a majority of the members of its governing body, to  
23 elect to abandon the proceedings to acquire the gas system by the  
24 exercise of the power of eminent domain. If the city does not  
25 elect to abandon within ninety days after the finding and filing of  
26 value, then the utility owning the gas system may appeal from the  
27 finding of value and award by the court of condemnation to the



1 district court. The appeal shall be made by filing within twenty  
2 days after the expiration of the time given the city to exercise  
3 its rights of abandonment, with the city clerk, a bond, to be  
4 approved by the court of condemnation, conditioned for the payment  
5 of all costs which may be made on any appeal, and by filing in the  
6 district court, within ninety days after such bond is filed, a  
7 transcript of the proceedings before the court of condemnation,  
8 including the evidence taken before it, certified by the clerk,  
9 reporter, and judges of the court of condemnation. The appeal in  
10 the district court shall be tried and determined upon the  
11 pleadings, proceedings, and evidence in the transcript.

12 (2) Notwithstanding the provisions of subsection (1) of  
13 this section, the city may abandon the proceedings to acquire the  
14 gas system by the exercise of the power of eminent domain at any  
15 time prior to taking physical possession of the gas system.

16 Sec. 13. Upon the hearing of the appeal in the district  
17 court, judgment shall be pronounced, as in ordinary cases, for the  
18 value of the gas system. The city or utility may appeal the  
19 judgment to the Court of Appeals.

20 Sec. 14. (1) A city shall not appropriate a gas system  
21 through the exercise of the power of eminent domain without the  
22 approval of the registered voters of the city as provided in the  
23 Municipal Natural Gas System Condemnation Act.

24 (2) At such time as (a) the court of condemnation has  
25 finally determined the value of the gas system and no appeal has  
26 been perfected to the district court from that determination by the  
27 city or the utility or (b) the district court has pronounced its

1 final judgment on the value of the gas system, notwithstanding that  
2 the utility or city has perfected an appeal from such judgment, the  
3 governing body of the city may submit to the registered voters of  
4 the city at any general or special city election the question of  
5 whether the city should acquire the gas system by the exercise of  
6 the power of eminent domain at the price established by the court  
7 of condemnation or the district court as the case may be. The  
8 ballot language shall describe the property to be acquired and the  
9 interest in the property being sought and shall recite the cost of  
10 the acquisition as adjudged by the court establishing the value of  
11 the gas system. The ballot question shall be in the following  
12 form:

13 Shall the city of (name of city) acquire by the exercise  
14 of the power of eminent domain the gas system currently owned by  
15 (name of utility) at a total cost of (set out the total dollar  
16 amount awarded by the condemnation court or the district court as  
17 the case may be): ....Yes ....No

18 (3) The city shall submit the question to the registered  
19 voters in the manner prescribed in the Election Act. The question  
20 may be placed before the registered voters of the city at any  
21 general or special city election called for the purpose and may be  
22 submitted in connection with any city special election called for  
23 any other purpose. The votes cast on the question shall be  
24 canvassed and the result found and declared as prescribed in the  
25 Election Act.

26 Sec. 15. If the election at which the question is  
27 submitted is a special election and sixty percent of the votes cast

1 upon such proposition are in favor, or if the election at which the  
2 question is submitted is a general election and a majority of the  
3 votes cast upon such proposition are in favor, then the officer  
4 possessing the power and duty to ascertain and declare the result  
5 of the election shall certify the result immediately to the  
6 governing body of the city. The governing body of the city may  
7 then proceed to tender the amount of the value and award made by  
8 the court of condemnation or district court to the utility owning  
9 the gas system and shall, notwithstanding the pendency of an  
10 appeal, have the right and power to take immediate possession of  
11 the gas system upon the tender.

12           Sec. 16. If the governing body of the city abandons  
13 proceedings for the acquisition of the gas system at any time prior  
14 to taking possession of the gas system or the issue of acquiring  
15 the gas system by the exercise of the power of eminent domain has  
16 been submitted to and not approved by the registered voters of the  
17 city, the city shall not initiate a new proceeding for the  
18 acquisition of the gas system until twenty-four months have elapsed  
19 from the date proceedings were abandoned or from the date of the  
20 election at which the question was not approved by the registered  
21 voters of the city.

22           Sec. 17. Following the completion or dismissal of all  
23 appeals and upon a final judgment being pronounced as to the value  
24 of the gas system, the governing body of the city may issue and  
25 sell bonds of the city to pay the amount of the value and award  
26 without a vote of the registered voters of the city.

27           Sec. 18. If a utility proposes to (1) construct a gas

1 system in a city for the first time, (2) reconstruct or renovate a  
2 portion of a gas system in a city or expand the gas system in a  
3 city over an area equivalent to twenty percent or more of the area  
4 of the city being served by the utility, or (3) construct new  
5 facilities, improvements, or upgrades to an existing gas system to  
6 enhance service to customers or increase efficiency if the costs of  
7 making such improvements equal or exceed twenty percent of the  
8 estimated reasonable value of the gas system in the city prior to  
9 the addition of such improvements, the city may enter into a  
10 binding and enforceable contract as provided in sections 19 to 22  
11 of this act with the utility to relinquish its right to condemn the  
12 gas system for an expressed period of time or for a period of time  
13 determinable by formula set out in the contract.

14           Sec. 19. If the utility seeks to pursue a qualifying  
15 project as specified in section 18 of this act, it may negotiate a  
16 contract with the city in which the city, in consideration of the  
17 utility's promise to provide, expand, or improve natural gas  
18 service to the citizens of the city at reasonable rates, with  
19 safeguards for public health and safety, and with appropriate  
20 standards for service, agrees to relinquish its right to condemn  
21 the gas system for a period of time sufficient to enable the  
22 utility to recover the reasonable costs of the project, but not to  
23 exceed such period.

24           Sec. 20. A contract entered into under section 18 of  
25 this act shall include provisions specifying:

26           (1) The nature of the qualifying project and the costs  
27 involved in its completion;

1           (2) The amount of the rates to be charged to customers in  
2 the city attributable solely to the cost of the project or the  
3 formula by which such attributable rates will be calculated;

4           (3) The standards of safety to be applied to the gas  
5 system during the construction and following the completion of the  
6 project;

7           (4) Any terms and conditions of natural gas service to  
8 customers in the city deemed material to the contract by the city  
9 and the utility;

10           (5) The period of time necessary for the utility to  
11 recover the reasonable cost of the project, during which time the  
12 city relinquishes its right to condemn the gas system expressed  
13 either as a set period of time or as a period of time to expire  
14 upon the occurrence of a specified condition; and

15           (6) Any other provisions agreed by the city and the  
16 utility to be material to the contract.

17           Sec. 21.   (1) A city and a utility shall not formally  
18 enter into a contract under section 18 of this act until the  
19 contract has been reviewed and approved by the commission.

20           (2) Upon completion of negotiations for the contract, the  
21 city and utility shall jointly submit the contract for review by  
22 the commission.

23           (3) The commission shall, following the submission of the  
24 contract and any supporting documentation requested by the  
25 commission, schedule a public hearing at which the city and utility  
26 may present any additional information and respond to questions or  
27 inquiries by the commission and at which the public may comment

1 upon the terms and conditions of the contract.

2 (4) The commission shall review the contract to determine  
3 (a) the accuracy of its factual representations and calculations,  
4 (b) the reasonableness of its terms and conditions, (c) that the  
5 disclosure of material information by the city or utility regarding  
6 the contract has been full, complete, accurate, and mutual, and (d)  
7 that the contract will, if entered into, further the public  
8 interest of the city in adequate and safe natural gas service.

9 (5) Following its review, the commission may approve the  
10 contract, recommend amendments to the contract to conform it to the  
11 requirements of sections 18 to 22 of this act, or deny approval of  
12 the contract. If the commission recommends amendments, the city  
13 and utility may adopt the amendments or renegotiate provisions of  
14 the contract and submit the amended contract for additional  
15 commission review until such time as the commission approves the  
16 language of the contract before it.

17 (6) If the commission approves the contract, the city and  
18 utility may formally enter into the contract.

19 Sec. 22. (1) Except as provided in subsection (2) or (3)  
20 of this section, a contract between a city and a utility entered  
21 into under sections 18 to 22 of this act shall bar the city from  
22 initiating condemnation proceedings during the period provided for  
23 in the contract.

24 (2) If the utility, by act or omission, breaches the  
25 contract, the city may pursue action in the district court of the  
26 county in which the city is located to have the court determine  
27 whether a material breach has occurred. If the court determines

1 that a material breach has occurred, the city may initiate  
2 proceedings to condemn the gas system notwithstanding that the  
3 terms of relinquishment set out in the contract have not expired.

4 (3) Except upon the express approval of the city, the  
5 utility may not assign its interest in the contract.

6 Sec. 23. Section 16-645, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 16-645. In all cases of damages arising from the  
9 creation or widening of new streets, avenues, or alleys, from the  
10 appropriation of property for sewers, parks, parkways, public  
11 squares, public heating plants, power plants, gas works, electric  
12 light plants, waterworks, or market places, and from change of  
13 grade in streets, avenues, or alleys, the damages sustained shall  
14 be ascertained and determined as provided in sections 76-704 to  
15 76-724, except as to property specifically excluded by section  
16 76-703 and as to which sections 19-701 to 19-707 ~~are~~ or the  
17 Municipal Natural Gas System Condemnation Act is applicable.

18 Sec. 24. Section 16-674, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 16-674. The mayor and city council shall have power to  
21 purchase or provide for, establish, construct, extend, enlarge,  
22 maintain, operate, and regulate for the city any such waterworks,  
23 gas works, power plant, including an electrical distribution  
24 facility, electric or other light works, or heating plant, or to  
25 condemn and appropriate, for the use of the city, waterworks, gas  
26 works, power plant, including an electrical distribution facility,  
27 electric or other light works, or heating plant. The procedure to

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1 condemn property shall be exercised in the manner set forth in  
2 sections 76-704 to 76-724, except as to property specifically  
3 excluded by section 76-703 and as to which sections 19-701 to  
4 19-707 ~~are~~ or the Municipal Natural Gas System Condemnation Act is  
5 applicable. For purposes of this section, an electrical  
6 distribution facility shall be located within the retail service  
7 area of such city as approved by and on file with the Nebraska  
8 Power Review Board, pursuant to Chapter 70, article 10.

9           Sec. 25.     Section 17-559, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           17-559.    Second-class cities and villages shall have  
12 power to create, open, widen, or extend any street, avenue, alley,  
13 offstreet parking area, or other public way, or annul, vacate, or  
14 discontinue the same; to take private property for public use for  
15 the purpose of erecting or establishing market houses, market  
16 places, parks, swimming pools, airports, gas systems, including  
17 distribution facilities, water systems, power plants, including  
18 electrical distribution facilities, sewer systems, or for any other  
19 needed public purpose; and to exercise the power of eminent domain  
20 within or without the city or village limits for the purpose of  
21 establishing and operating power plants including electrical  
22 distribution facilities to supply such city or village with public  
23 utility service, and for sewerage purposes, water supply systems,  
24 or airports. The procedure to condemn property shall be exercised  
25 in the manner set forth in sections 76-704 to 76-724, except as to  
26 property specifically excluded by section 76-703 and as to which  
27 sections 19-701 to 19-707 ~~are~~ or the Municipal Natural Gas System



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1 Condemnation Act is applicable. For purposes of this section,  
2 electrical distribution facilities shall be located within the  
3 retail service area of such city or village as approved by and on  
4 file with the Nebraska Power Review Board, pursuant to Chapter 70,  
5 article 10.

6 Sec. 26. Section 19-701, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 19-701. Whenever the qualified electors of any city of  
9 the primary class, city of the first class, city of the second  
10 class, or village shall vote at any general or special election to  
11 acquire and appropriate, by an exercise of the power of eminent  
12 domain, any waterworks, waterworks system, ~~gas plant or a gas~~  
13 ~~system, including a natural or bottled gas plant, gas distribution~~  
14 ~~system, or gas pipe lines,~~ electric light plant, electric light and  
15 power plant, heating plant, street railway, or street railway  
16 system, located or operating within or partly within and partly  
17 without such city or village, together with real and personal  
18 property needed or useful in connection therewith, if the main part  
19 of such works, plant, or system be within any such city or village  
20 and even though a franchise for the construction and operating of  
21 any such works, plant, or system may or may not have expired, then  
22 any such city or village shall possess and have the power and  
23 authority, by an exercise of the power of eminent domain to  
24 appropriate and acquire, for the public use of any such city or  
25 village, any such works, plant, railway, pipelines, or system. If  
26 ~~+ PROVIDED, that where~~ any public utility properties supplying  
27 different kinds of service to such a city or village are operated

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1 as one unit and under one management, the right to acquire and  
2 appropriate, as provided in sections 19-701 to 19-707, shall cover  
3 and extend to the entire property and not to any divided or  
4 segregated part thereof, and the duly constituted authorities of  
5 any such city or village shall have the power to submit such  
6 question or proposition, in the usual manner, to the qualified  
7 electors of any such city or village at any general city or village  
8 election or at any special city or village election and may submit  
9 the proposition in connection with any city or village special  
10 election called for any other purpose, and the votes cast thereon  
11 shall be canvassed and the result found and declared as in any  
12 other city or village election. Such ~~+ AND PROVIDED FURTHER, such~~  
13 city or village authorities shall submit such question at any such  
14 election whenever a petition asking for such submission, signed by  
15 the legal voters of such a city or village equaling in number  
16 fifteen percent of the votes cast at the last general city or  
17 village election, and filed in the city or village clerk's office  
18 at least sixty days before the election at which the submission is  
19 asked, but if the question of acquiring any particular plant or  
20 system has been submitted once, the same question shall not again  
21 be submitted to the voters of such a city or village until two  
22 years shall have elapsed from and after the date of the findings by  
23 the board of appraisers regarding the value of the property and the  
24 city's or village's rejection of the same.

25           Sec. 27. Section 19-709, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27           19-709. The mayor and city council of any city of the

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1 first or second class or the ~~chairman~~ chairperson and members of  
2 the board of trustees of any village shall have power to purchase  
3 or appropriate private property or school lands for the use of the  
4 city or village for streets, alleys, avenues, parks, parkways,  
5 boulevards, sanitary sewers, storm water sewers, public squares,  
6 public auditoriums, public fire stations, training facilities for  
7 ~~firemen~~ firefighters, market places, public heating plants, power  
8 plants, gas works, electric light plants, wells, or waterworks,  
9 including mains, pipelines, and settling basins therefor, and to  
10 acquire outlets and the use of streams for sewage disposal. When  
11 necessary for the proper construction of any of the works above  
12 provided, the right of appropriation shall extend such distance as  
13 may be necessary from the corporate limits of the city or village,  
14 except that no city of the first or second class or village may  
15 acquire through the exercise of the power of eminent domain or  
16 otherwise any real estate within the zoning jurisdiction of any  
17 other city of the first or second class or village for any of the  
18 works enumerated in this section if the use for which the real  
19 estate is to be acquired would be contrary to or would not be a use  
20 permitted by the existing zoning ordinances and regulations of such  
21 other city or village, but such real estate may be acquired within  
22 the zoning jurisdiction of another city of the first or second  
23 class or village for such contrary or nonpermitted use if the  
24 governing body of such other city or village shall approve such  
25 acquisition and use. Such power shall also include the right to  
26 appropriate for any of the above purposes any plant or works  
27 already constructed, or any part thereof, whether the same lies

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1 wholly within the city or village or part within and part without  
2 the city or village or beyond the corporate limits of such city or  
3 village, including all real estate, buildings, machinery, pipes,  
4 mains, hydrants, basins, reservoirs, and all appurtenances  
5 reasonably necessary thereto and a part thereof, or connected with  
6 such works or plants, and all franchises to own and operate the  
7 same, if any. The procedure to condemn property shall be exercised  
8 in the manner set forth in sections 76-704 to 76-724, except as to  
9 property specifically excluded by section 76-703 and as to which  
10 sections 19-701 to 19-707 or the Municipal Natural Gas System  
11 Condemnation Act is ~~are~~ applicable.

12           Sec. 28.     Section 76-703, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           76-703.    Damages to be paid by the condemner for any  
15 property including parts of or easements across rights-of-way of a  
16 public utility or a railroad taken through the exercise of the  
17 power of eminent domain shall be ascertained and determined as  
18 provided in sections 76-704 to 76-724, except ~~+~~ ~~PROVIDED,~~ that  
19 ~~where~~ if it is sought to condemn the property, or such part thereof  
20 as will result in a decrease in the territory or volume of service,  
21 of a public utility engaged in the rendition of existing service,  
22 such damages shall be ascertained and determined as provided in  
23 sections 19-701 to 19-707 and 70-650 or the Municipal Natural Gas  
24 System Condemnation Act, when applicable.

25           Sec. 29.    This act becomes operative on July 1, 2003.

26           Sec. 30.    Original sections 16-645, 16-674, 17-559,  
27 19-701, 19-709, and 76-703, Reissue Revised Statutes of Nebraska,

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1 are repealed.".

2           2. On page 1, strike beginning with "prohibit" in line 1  
3 through line 2 and insert "amend sections 16-645, 16-674, 17-559,  
4 19-701, 19-709, and 76-703, Reissue Revised Statutes of Nebraska;  
5 to adopt the Municipal Natural Gas System Condemnation Act; to  
6 harmonize provisions; to provide an operative date; and to repeal  
7 the original sections.".